



**Legislative Council Staff**  
*Research Note*

Version: Final

Date: 3/11/2016

**Bill Number**

**Senate Bill 16-044**

**Sponsors**

**Senator Sonnenberg**  
*(None)*

**Short Title**

***Contested Conservation  
Easement Tax Credit Claims***

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**Status**

This research note reflects the final version of the bill. This bill was postponed indefinitely by the Senate Finance Committee on March 10, 2016.

**Summary**

The bill states that the only allowable reason for the Colorado Department of Revenue to contest a conservation easement tax credit claim is if the appraised value is supported solely by an appraiser convicted of a crime in connection with the preparation of an appraisal. The change applies both to conservation easements donated prior to January 1, 2014, and to conservation easements donated on or after the bill is signed into law. Additionally, the bill directs the Department of Revenue to refund the amount of tax, interest, or penalty paid by a taxpayer in connection with a claim previously contested claim for any reason other than that stated in the bill.

**Background**

A conservation easement is a voluntary legal agreement between a landowner and a charitable organization or government entity that permanently protects scenic or agricultural open space, natural habitat, or recreational areas. These agreements can be tailored to preserve the specific qualities tied to the property, allowing it to remain under private ownership and control.

Colorado offers a state income tax credit for conservation easements that qualify as charitable contributions under federal law. This tax credit was originally enacted in 1999. In addition to donations, a seller may apply for this tax credit for the difference between the appraised value and actual sale price of an easement. The tax credit may also be transferred to another taxpayer.

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A Colorado taxpayer can claim a state income tax credit during the tax year when the easement is donated. Beginning in tax year 2014, taxpayers are required to apply for a credit certificate from the Division of Real Estate (the division) in the Department of Regulatory Agencies. The division reviews an assessment of the property's fair market value in order to determine the amount of credit for which the easement qualifies.

Since tax year 2011, state law has capped the aggregate value of credit certificates that the division can issue for a single tax year. The cap is set at \$45 million for 2014 and all subsequent tax years. The division may process applications for credit certificates after the \$45 million cap has been reached; however, approved certificates are not issued until the following tax year when the cap has reset. The division is responsible for notifying the Department of Revenue of certificates issued each year.

For tax year 2013, the division issued credit certificates worth a total of \$28.2 million. The division received 46 applications for credit certificates worth a total of \$11.2 million in tax year 2014.

## Senate Action

**Senate Finance Committee (February 9, 2016).** At the hearing, five individuals, including representatives of the Landowners United Advocacy Foundation, testified in support of the bill. Representatives from the Department of Revenue, the Attorney General's Office, and the Colorado Coalition of Land Trusts testified in opposition of the bill. The bill was laid over for action at a later date.

**Senate Finance Committee (March 10, 2016).** At the request of the sponsor, the committee postponed the bill indefinitely.

## Relevant Research

Legislative Council Staff, *Conservation Easements*, Issue Brief, July 2012 : <http://tinyurl.com/h72wjge>

Legislative Council Staff, *Conservation Easement Income Tax Incentives*, Interested Persons Memo, November 2015: <http://tinyurl.com/zvob57l>